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1 A bill to be entitled
2 An act relating to protection of minors; providing a
3 short title; amending s. 775.21, F.S.; requiring a
4 person convicted of a second or subsequent violation
5 of a specified video voyeurism provision to register
6 as a sexual offender if the victim of the violation
7 was a minor; amending s. 827.071, F.S.; providing that
8 if more than one child is involved in a violation of
9 provisions prohibiting sexual performance by a child,
10 each child involved in the violation creates a
11 separate offense; amending s. 943.0435, F.S.;
12 requiring a person convicted of a video voyeurism
13 violation to register as a sexual offender if the
14 victim of the violation was a minor; amending s.
15 810.145, F.S.; revising the definition of the term
16 "place and time when a person has a reasonable
17 expectation of privacy" to include the interior of a
18 residential dwelling; increasing the classification of
19 specified video voyeurism offenses involving minors;
20 amending s. 921.0022, F.S.; ranking a violation of s.
21 810.145(8)(b), F.S., above its default value for
22 purposes of the offense severity ranking chart of the
23 Criminal Punishment Code; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. This act may be cited as the "Protect Our
28 Children Act of 2012."

29 Section 2. Paragraph (a) of subsection (4) of section
 30 775.21, Florida Statutes, is amended to read:

31 775.21 The Florida Sexual Predators Act.—

32 (4) SEXUAL PREDATOR CRITERIA.—

33 (a) For a current offense committed on or after October 1,
 34 1993, upon conviction, an offender shall be designated as a
 35 "sexual predator" under subsection (5), and subject to
 36 registration under subsection (6) and community and public
 37 notification under subsection (7) if:

38 1. The felony is:

39 a. A capital, life, or first-degree felony violation, or
 40 any attempt thereof, of s. 787.01 or s. 787.02, where the victim
 41 is a minor and the defendant is not the victim's parent or
 42 guardian, or s. 794.011, s. 800.04, or s. 847.0145, or a
 43 violation of a similar law of another jurisdiction; or

44 b. Any felony violation, or any attempt thereof, of s.
 45 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a
 46 minor and the defendant is not the victim's parent or guardian;
 47 s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.
 48 796.035; s. 800.04; s. 810.145(8); s. 825.1025(2)(b); s.
 49 827.071; s. 847.0135(5); s. 847.0145; or s. 985.701(1); or a
 50 violation of a similar law of another jurisdiction, and the
 51 offender has previously been convicted of or found to have
 52 committed, or has pled nolo contendere or guilty to, regardless
 53 of adjudication, any violation of s. 787.01, s. 787.02, or s.
 54 787.025(2)(c), where the victim is a minor and the defendant is
 55 not the victim's parent or guardian; s. 794.011, excluding s.
 56 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.

57 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
 58 excluding s. 847.0135(6); s. 847.0145; or s. 985.701(1); or a
 59 violation of a similar law of another jurisdiction;

60 2. The offender has not received a pardon for any felony
 61 or similar law of another jurisdiction that is necessary for the
 62 operation of this paragraph; and

63 3. A conviction of a felony or similar law of another
 64 jurisdiction necessary to the operation of this paragraph has
 65 not been set aside in any postconviction proceeding.

66 Section 3. Paragraph (a) of subsection (5) of section
 67 827.071, Florida Statutes, is amended to read:

68 827.071 Sexual performance by a child; penalties.—

69 (5) (a) It is unlawful for any person to knowingly possess,
 70 control, or intentionally view a photograph, motion picture,
 71 exhibition, show, representation, image, data, computer
 72 depiction, or other presentation which, in whole or in part, he
 73 or she knows to include any sexual conduct by a child. The
 74 possession, control, or intentional viewing of each such
 75 photograph, motion picture, exhibition, show, image, data,
 76 computer depiction, representation, or presentation is a
 77 separate offense. If a photograph, motion picture, exhibition,
 78 show, representation, image, data, computer depiction, or other
 79 presentation includes sexual conduct by more than one child,
 80 then each such child in each such photograph, motion picture,
 81 exhibition, show, representation, image, data, computer
 82 depiction, or other presentation is a separate offense. A person
 83 who violates this subsection commits a felony of the third
 84 degree, punishable as provided in s. 775.082, s. 775.083, or s.

85 775.084.

86 Section 4. Paragraph (a) of subsection (1) of section
87 943.0435, Florida Statutes, is amended to read:

88 943.0435 Sexual offenders required to register with the
89 department; penalty.—

90 (1) As used in this section, the term:

91 (a)1. "Sexual offender" means a person who meets the
92 criteria in sub-subparagraph a., sub-subparagraph b., sub-
93 subparagraph c., or sub-subparagraph d., as follows:

94 a.(I) Has been convicted of committing, or attempting,
95 soliciting, or conspiring to commit, any of the criminal
96 offenses proscribed in the following statutes in this state or
97 similar offenses in another jurisdiction: s. 787.01, s. 787.02,
98 or s. 787.025(2)(c), where the victim is a minor and the
99 defendant is not the victim's parent or guardian; s. 794.011,
100 excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s.
101 800.04; s. 810.145(8)(a); s. 825.1025; s. 827.071; s. 847.0133;
102 s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138;
103 s. 847.0145; or s. 985.701(1); or any similar offense committed
104 in this state which has been redesignated from a former statute
105 number to one of those listed in this sub-sub-subparagraph; and

106 (II) Has been released on or after October 1, 1997, from
107 the sanction imposed for any conviction of an offense described
108 in sub-sub-subparagraph (I). For purposes of sub-sub-
109 subparagraph (I), a sanction imposed in this state or in any
110 other jurisdiction includes, but is not limited to, a fine,
111 probation, community control, parole, conditional release,
112 control release, or incarceration in a state prison, federal

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113 | prison, private correctional facility, or local detention
114 | facility;

115 | b. Establishes or maintains a residence in this state and
116 | who has not been designated as a sexual predator by a court of
117 | this state but who has been designated as a sexual predator, as
118 | a sexually violent predator, or by another sexual offender
119 | designation in another state or jurisdiction and was, as a
120 | result of such designation, subjected to registration or
121 | community or public notification, or both, or would be if the
122 | person were a resident of that state or jurisdiction, without
123 | regard to whether the person otherwise meets the criteria for
124 | registration as a sexual offender;

125 | c. Establishes or maintains a residence in this state who
126 | is in the custody or control of, or under the supervision of,
127 | any other state or jurisdiction as a result of a conviction for
128 | committing, or attempting, soliciting, or conspiring to commit,
129 | any of the criminal offenses proscribed in the following
130 | statutes or similar offense in another jurisdiction: s. 787.01,
131 | s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
132 | the defendant is not the victim's parent or guardian; s.
133 | 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.
134 | 796.035; s. 800.04; s. 810.145(8)(a); s. 825.1025; s. 827.071;
135 | s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137;
136 | s. 847.0138; s. 847.0145; or s. 985.701(1); or any similar
137 | offense committed in this state which has been redesignated from
138 | a former statute number to one of those listed in this sub-
139 | subparagraph; or

140 | d. On or after July 1, 2007, has been adjudicated

141 delinquent for committing, or attempting, soliciting, or
 142 conspiring to commit, any of the criminal offenses proscribed in
 143 the following statutes in this state or similar offenses in
 144 another jurisdiction when the juvenile was 14 years of age or
 145 older at the time of the offense:

146 (I) Section 794.011, excluding s. 794.011(10);

147 (II) Section 800.04(4)(b) where the victim is under 12
 148 years of age or where the court finds sexual activity by the use
 149 of force or coercion;

150 (III) Section 800.04(5)(c)1. where the court finds
 151 molestation involving unclothed genitals; or

152 (IV) Section 800.04(5)(d) where the court finds the use of
 153 force or coercion and unclothed genitals.

154 2. For all qualifying offenses listed in sub-subparagraph
 155 (1)(a)1.d., the court shall make a written finding of the age of
 156 the offender at the time of the offense.

157
 158 For each violation of a qualifying offense listed in this
 159 subsection, the court shall make a written finding of the age of
 160 the victim at the time of the offense. For a violation of s.
 161 800.04(4), the court shall additionally make a written finding
 162 indicating that the offense did or did not involve sexual
 163 activity and indicating that the offense did or did not involve
 164 force or coercion. For a violation of s. 800.04(5), the court
 165 shall additionally make a written finding that the offense did
 166 or did not involve unclothed genitals or genital area and that
 167 the offense did or did not involve the use of force or coercion.

168 Section 5. Paragraph (c) of subsection (1) and subsection
 169 (8) of section 810.145, Florida Statutes, are amended to read:

170 810.145 Video voyeurism.—

171 (1) As used in this section, the term:

172 (c) "Place and time when a person has a reasonable
 173 expectation of privacy" means a place and time when a reasonable
 174 person would believe that he or she could fully disrobe in
 175 privacy, without being concerned that the person's undressing
 176 was being viewed, recorded, or broadcasted by another,
 177 including, but not limited to, the interior of a residential
 178 dwelling, bathroom, changing room, fitting room, dressing room,
 179 or tanning booth.

180 (8) (a) A person who is:

181 1. Eighteen years of age or older who is responsible for
 182 the welfare of a child younger than 16 years of age, regardless
 183 of whether the person knows or has reason to know the age of the
 184 child, and who commits an offense under this section against
 185 that child;

186 2. Eighteen years of age or older who is employed at a
 187 private school as defined in s. 1002.01; a school as defined in
 188 s. 1003.01; or a voluntary prekindergarten education program as
 189 described in s. 1002.53(3) (a), (b), or (c) and who commits an
 190 offense under this section against a student of the private
 191 school, school, or voluntary prekindergarten education program;
 192 or

193 3. Twenty-four years of age or older who commits an
 194 offense under this section against a child younger than 16 years
 195 of age, regardless of whether the person knows or has reason to

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196 know the age of the child
 197
 198 commits a felony of the second ~~third~~ degree, punishable as
 199 provided in s. 775.082, s. 775.083, or s. 775.084.

200 (b) A person who violates this subsection and who has
 201 previously been convicted of or adjudicated delinquent for any
 202 violation of this section commits a felony of the second degree,
 203 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

204 Section 6. Paragraph (f) of subsection (3) of section
 205 921.0022, Florida Statutes, is amended to read:

206 921.0022 Criminal Punishment Code; offense severity
 207 ranking chart.—

208 (3) OFFENSE SEVERITY RANKING CHART

209 (f) LEVEL 6

210

Florida Statute	Felony Degree	Description
316.193 (2) (b)	3rd	Felony DUI, 4th or subsequent conviction.
499.0051 (3)	2nd	Knowing forgery of pedigree papers.
499.0051 (4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.

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215	499.0051 (5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
216	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
217	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
218	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
219	784.041	3rd	Felony battery; domestic battery by strangulation.
220	784.048 (3)	3rd	Aggravated stalking; credible threat.
221	784.048 (5)	3rd	Aggravated stalking of person under 16.
222	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility

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staff.

223

784.08 (2) (b) 2nd Aggravated assault on a person
65 years of age or older.

224

784.081 (2) 2nd Aggravated assault on specified
official or employee.

225

784.082 (2) 2nd Aggravated assault by detained
person on visitor or other
detainee.

226

784.083 (2) 2nd Aggravated assault on code
inspector.

227

787.02 (2) 3rd False imprisonment; restraining
with purpose other than those
in s. 787.01.

228

790.115 (2) (d) 2nd Discharging firearm or weapon
on school property.

229

790.161 (2) 2nd Make, possess, or throw
destructive device with intent
to do bodily harm or damage
property.

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231	790.164 (1)	2nd	False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.
232	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
233	794.011 (8) (a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
234	794.05 (1)	2nd	Unlawful sexual activity with specified minor.
235	800.04 (5) (d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender less than 18 years.
236	800.04 (6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any

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other person.

237

810.02 (3) (c) 2nd Burglary of occupied structure;
unarmed; no assault or battery.

238

810.145 (8) (b) 2nd Video voyeurism; certain minor
victims; 2nd or subsequent
offense.

239

812.014 (2) (b) 1. 2nd Property stolen \$20,000 or
more, but less than \$100,000,
grand theft in 2nd degree.

240

812.014 (6) 2nd Theft; property stolen \$3,000
or more; coordination of
others.

241

812.015 (9) (a) 2nd Retail theft; property stolen
\$300 or more; second or
subsequent conviction.

242

812.015 (9) (b) 2nd Retail theft; property stolen
\$3,000 or more; coordination of
others.

243

812.13 (2) (c) 2nd Robbery, no firearm or other
weapon (strong-arm robbery).

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245	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.
246	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
247	825.102 (1)	3rd	Abuse of an elderly person or disabled adult.
248	825.102 (3) (c)	3rd	Neglect of an elderly person or disabled adult.
249	825.1025 (3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
250	825.103 (2) (c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$20,000.
251	827.03 (1)	3rd	Abuse of a child.
252	827.03 (3) (c)	3rd	Neglect of a child.
	827.071 (2) & (3)	2nd	Use or induce a child in a sexual performance, or promote

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or direct such performance.

253

836.05 2nd Threats; extortion.

254

836.10 2nd Written threats to kill or do
bodily injury.

255

843.12 3rd Aids or assists person to
escape.

256

847.011 3rd Distributing, offering to
distribute, or possessing with
intent to distribute obscene
materials depicting minors.

257

847.012 3rd Knowingly using a minor in the
production of materials harmful
to minors.

258

847.0135(2) 3rd Facilitates sexual conduct of
or with a minor or the visual
depiction of such conduct.

259

914.23 2nd Retaliation against a witness,
victim, or informant, with
bodily injury.

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944.35 (3) (a) 2. 3rd Committing malicious battery
upon or inflicting cruel or
inhuman treatment on an inmate
or offender on community
supervision, resulting in great
bodily harm.

261

944.40 2nd Escapes.

262

944.46 3rd Harboring, concealing, aiding
escaped prisoners.

263

944.47 (1) (a) 5. 2nd Introduction of contraband
(firearm, weapon, or explosive)
into correctional facility.

264

951.22 (1) 3rd Intoxicating drug, firearm, or
weapon introduced into county
facility.

265

266 Section 7. This act shall take effect October 1, 2012.